REMARKS

Claims 4-9, 12-14 and 16-17 are pending in the application. Applicant affirms the election of these claims for further prosecution in this application. Claims 1-3, 10, 11 and 15 have been cancelled from the application. Applicant reserves the right to re-submit these claims in a divisional application claiming the right of priority of the present application.

Claims 4-9, 12-14 and 16-17 stand rejected as described in greater detail below. Reconsideration and allowance of claims 4-9, 12-14 and 16-17 in light of the arguments herein are respectfully requested.

Claim rejections

Claims 4-5, 9 and 16-17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Japanese patent document JP 10200493 to Iwasaki, et al. ("Iwasaki"). Further, claims 6-8 and 12-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwasaki in view of German patent document DE 4424380 A1 to Luegering ("Luegering").

These rejections of claims 4-9, 12-14 and 16-17 are respectfully traversed. Each independent claim recites limitations nowhere shown, described or suggested by the cited prior art references. Under 35 U.S.C. § 102, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131. Under 35 U.S.C. § 103(a), "the prior art reference (or references when combined) must teach or suggest all the claim limitations." The cited reference or combination of references fails to satisfy these requirements.

In the system disclosed in Iwasaki, an important feature is the allocation of a channel to a PHS terminal (PS) which is dedicated to delivery of music data only. In the Iwasaki system, a local server (LSV) or a central server (CSV) receives a request for downloading music from a PHS terminal (PS).

As the Office Action notes, Iwasaki discloses a CSV and LSV capable of delivering content or information. Specifically, in the Iwasaki system, the CSV delivers a program and therefore has a function similar to that of a broadcast station of the present invention defined by

the currently pending claims (such as, for example, broadcast station 70 of the embodiments described in the application). In Iwasaki, the LSV downloads a program from the CSV for communication to a PS, responsive to a request received from the PS. Accordingly, the Iwasaki system discloses a function that is similar to that of a delivery management server of the present invention defined by the currently pending claims (such as, for example, delivery management server 60, 90 of the embodiments described in the application).

However, in clear contrast to the invention defined by the presently pending claims, Iwasaki does not disclose storage of different information in the LSV and the CSV. Specifically, claim 4, for example, recites

> ... storing *first information* with a high frequency of request and *second information* with a lower frequency of request as compared with said first information... *(emphasis added)*

Independent claims 5, 12, 16 and 17 each include similar limitations. Iwasaki fails to disclose this limitation. Rather, Iwasaki discloses that it is possible to employ only the CSV for delivering programs. Iwasaki, paragraph [0078]. In view of the disclosure of Iwasaki, it will be readily understood by one of ordinary skill in the art that the information stored in the LSV and the CSV is the same. In other words, when utilized as an information provider, no substantial difference exists between CSV and LSV.

In a system in accordance with the disclosed embodiments of the present invention, a delivery management server 60, 90 and broadcast station 70 provide different contents. Namely, although the delivery management server 60, 90 receives from the mobile stations MS programs for delivery, similar to Iwasaki, the delivery management server of the disclosed embodiments stores only music of minority interest.

Thus, upon receipt of a request from a mobile station MS for music of minority interest, the delivery management server 60, 90 delivers digital music data of the requested music to a destination device, MS or STB. See, for example, page 30, line 24 through page 31, line 15 of the present application. In contrast, in the present embodiments, upon receipt of a request for popular music, the delivery management server 60, 90 does not deliver the music digital data of the song, but merely transmits a decrypting key to the MS. See, for example, page 30, lines 4-

23. The rationale for use of such a system is that popular music is broadcast by a broadcast station and is therefore readily receivable.

It is important to note that, in a system in accordance with the present invention defined by the pending claims, **two types of potential content providers** (e.g., the broadcasting station 70 and the delivery management server 60, 90 in one embodiment) are employed, so that it becomes possible to change a content provider dependent on a content requested, namely, popular music or music of minority interest. As a result, a system in accordance with the present invention is able to handle a wide variety of requests from MS users while effectively utilizing limited resources, such as a frequency band.

The Office Action notes that Iwasaki discloses a process for delivering popular music. However, the fact is that in delivering popular music, the system of Iwasaki increases the number of channels which must be allocated for delivery of popular music, since it is natural that a large number of requests will be transmitted for popular music.

In summary, the system of Iwasaki is inefficient in its employment of resources in that it does not cause a content provider (CSV or LSV) to be changed dependent on the popularity of music requested. In view of the foregoing, it will be readily apparent that Iwasaki neither shows, describes or suggests the present invention defined by claims 4-5, 9 and 16-17 or claims 6-8 and 12-14 when taken in combination with Luegering.

Luegering fails to provide the missing claim limitations. Luegering further fails to include other limitations of the pending claims. With respect to the disclosure of Luegering, as the Office Action notes, this reference discloses that information is transmitted from a terminal, telephone unit 7, via a mobile telephone network 8, to a managing means 6, which may be considered to correspond to the delivery management server 60, 90 of the presently disclosed embodiments. The managing means is also able to check the identity of a sender of a request.

However, what is to be noted is that only a receiver 2, as shown in Luegering FIG. 1, is able to receive information. A terminal such as telephone unit 7 is only able to receive decoding information related to the received information. Thus, for all the information provided, only a single destination exists. Moreover, it will be apparent that Luegering fails to disclose any method for determining a potential destination of information on the basis of content of the information.

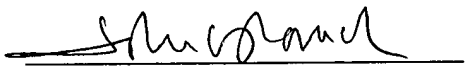
In clear contrast, in the system in accordance with claims 6-8 and 12-14 and the presently disclosed embodiments, **two potential destinations of information, MS and STB**, are provided, thereby enabling a user of the MS to select one or the other of these prescribed destinations. Thus, independent claim 5 provides "a mobile communication terminal" and "an information receiving terminal." Independent claim 12 includes similar recitation.

Thus, it will be readily apparent to one of ordinary skill in the art that Luegering neither discloses nor suggests this important feature of the invention defined by the present claims.

Accordingly, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 4-5, 9 and 16-17 is respectfully requested. Similarly, withdrawal of the 35 U.S.C. § 103(a) of claims 6-8 and 12-14 is respectfully requested.

With this response, the application is believed to be in condition for allowance. Should the examiner deem a telephone conference to be of assistance in advancing the application to allowance, the examiner is invited to call the undersigned attorney at the telephone number below.

Respectfully submitted,



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